



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 110, and 165

[Docket No. USCG-2012-0174]

RIN 1625-AA00, AA01, AA08, AA11, AA87

OPSAIL 2012 Virginia, Port of Hampton Roads, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing temporary regulations in the Port of Hampton Roads, Virginia for Operation Sail (OPSAIL) 2012 Virginia activities. This regulation is necessary to provide for the safety of life on navigable waters before, during, and after OPSAIL 2012 Virginia events. This action is intended to restrict vessel traffic movement in portions of Chesapeake Bay, Hampton Roads, the James River and Elizabeth River.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2012-0174 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Dennis Sens, Prevention Division, Fifth Coast Guard District; telephone 757-398-6204, e-mail Dennis.M.Sens@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2012-0174), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0174) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2012-0174) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an

agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

Basis and Purpose

Operation Sail, Inc. is sponsoring OPSAIL 2012 Virginia in the Port of Hampton Roads. Planned events include the scheduled arrival of U.S. and foreign naval vessels, public vessels, tall ships and other vessels on June 6, 2012 and June 8, 2012; the scheduled departure of

those vessels on June 12, 2012; and three fireworks displays on June 9, 2012 with a rain date of June 10, 2012.

The Coast Guard anticipates a large spectator fleet for these events. Vessel operators should expect significant congestion along the OPSAIL parade route and viewing areas for fireworks displays.

The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Hampton Roads immediately prior to, during, and after the scheduled events. The regulations provide clear passage and a safety buffer around participating vessels along the parade route while they are in transit, enhancing safety of participant and spectator vessels. The regulations also establish areas where vessels shall proceed at the minimum speed necessary that minimizes wake along the parade route and modifies existing anchorage regulations for the benefit of participants and spectators. These proposed regulations will provide a safety buffer around the planned fireworks displays. The regulations will impact the movement of all vessels operating in the specified areas of the Port of Hampton Roads.

The Coast Guard proposes to establish safety and security zones as a part of these regulations to safeguard

dignitaries and certain vessels participating in the event. The Coast Guard will implement and enforce safety zones as specified in this regulation. The details of the safety zones outlined in this regulation will also be announced separately via Local Notice to Mariners, Safety Voice Broadcasts, and by other public media outlets.

Vessel operators are also reminded that Norfolk Naval Base will be strictly enforcing the existing restricted area defined at 33 CFR 334.300 during all of the events.

All vessel operators and passengers are reminded that vessels carrying passengers for hire or that have been chartered and are carrying passengers may have to comply with certain additional rules and regulations beyond the safety equipment requirements for all pleasure craft. When a vessel is not being used exclusively for pleasure, but rather is engaged in carrying passengers for hire or has been chartered and is carrying the requisite number of passengers, the vessel operator must possess an appropriate license and the vessel may be subject to inspection. The definition of the term "passenger for hire" is found in 46 U.S.C. 2101(21a). In general, it means any passenger who has contributed any consideration (monetary or otherwise) either directly or indirectly for carriage onboard the vessel. The definition of the term "passenger" is found in

46 U.S.C. 2101(21). It varies depending on the type of vessel, but generally means individuals carried aboard vessels except for certain specified individuals engaged in the operation of the vessel or the business of the owner/charterer. The law provides for substantial penalties for any violation of applicable license and inspection requirements. If you have any questions concerning the application of the above law to your particular case, you should contact the Coast Guard at the address listed in ADDRESSES for additional information.

Vessel operators are reminded they must have sufficient facilities on board their vessels to retain all garbage and untreated sewage. Discharge of either into any waters of the United States is strictly forbidden. Violators may be assessed civil penalties up to \$40,000 or face criminal prosecution.

We recommend that vessel operators visiting the Port of Hampton Roads for this event obtain up to date editions of the following charts of the area: NOS. 12222, 12245, 12253, and 12254 to avoid anchoring within a charted cable or pipeline area.

With the arrival of OPSAIL 2012 Virginia participants and spectator vessels in the Port of Hampton Roads for this event, it will be necessary to curtail normal port

operations to some extent. Interference will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled events.

Discussion of Proposed Rule

The vessels involved in the Parades of Sail are scheduled to arrive in the Captain of the Port (COTP) Hampton Roads Zone, as described in 33 CFR 3.25-10, on June 6, 2012 and June 8, 2012, following a route that includes specified waters of the Chesapeake Bay, Hampton Roads, James River, and Elizabeth River. The vessels involved in Parades of Sail are scheduled to depart the COTP Hampton Roads Zone on June 12, 2012, following a route that includes specified waters of the Chesapeake Bay, Hampton Roads, James River and Elizabeth River

The safety of marine parade participants and spectators will require that spectator craft be kept at a safe distance from the parade routes during vessel movement. The Coast Guard proposes closing the arrival parade route to all vessels not involved in the Parades of Sail for the duration of events on June 6 and 8, 2012. The arrival parade route has been segmented in this rulemaking to facilitate the earliest possible reopening of the waterway once all OPSAIL 2012 Virginia vessels have cleared

a particular segment of the route, but portions of the Elizabeth River will remain closed until all of the OPSAIL 2012 Virginia vessels are safely moored at their assigned berths.

The departure parade route will also require that spectator craft be kept at a safe distance during vessel movement, we propose to establish a temporary moving safety zone around Parade of Sail vessels greater than 100 feet in length overall, while operating in the navigable waters of the Chesapeake Bay or its tributaries, north of latitude 36°55'00"N and south of the Virginia - Maryland border. This action is necessary to ensure the safety of participants and spectators immediately prior to, during, and following the OPSAIL 2012 activities.

In addition to closing the parade route, we propose to establish Vessel Traffic Control Points to control the flow of spectator vessel traffic immediately prior to and during the parades and fireworks display. Vessel Traffic Control Points will be established on specified areas of the Chesapeake Bay, Hampton Roads, James River and Elizabeth River.

The Coast Guard also intends to temporarily modify the existing anchorage regulations found at 33 CFR Sec. 110.168 to accommodate OPSAIL 2012 Virginia participants and

spectator vessels. Spectator vessels will be allowed to anchor in Anchorage E and Anchorage F during the arrival and departure parades of sail. Anchorage K will be closed to all vessels, except large spectator vessels.

The regulations for the Regulated Navigation Area defined in 33 CFR 165.501 will also be temporarily modified for the OPSAIL 2012 Virginia event. Draft limitations for vessels using Thimble Shoal Channel will be waived for OPSAIL 2012 Virginia vessels; and vessels will be required to proceed at the minimum speed necessary that minimizes wake within the regulated navigation area, as defined in 33 CFR 165.501, during the Parades of Sail.

Coast Guard Captain of the Port will give notice of the enforcement of each regulated area and safety zone by all appropriate means to provide the widest dissemination of notice among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine Information Broadcasts. Marine information and facsimile broadcasts may also be made for these events, beginning 24 to 48 hours before the event.

Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris, the

Coast Guard also intends to implement a safety zone from 9 p.m. to 11 p.m. on June 9, 2012 with a rain date from 9 p.m. to 11 p.m. on June 10, 2012.

The regulations contained within this proposed rule are not intended to affect existing Naval Vessel Protection Zone regulations described in Title 33 CFR Part 165 (Subpart G).

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The primary impact of these regulations will be on vessels wishing to transit the affected waterways during OPSAIL 2012 Virginia vessels arrival

beginning on June 6, 2012, June 8, 2012, their departure ending on June 12, 2012 and during the fireworks display on June 9, 2012. Although these regulations prevent traffic from transiting a portion of the Chesapeake Bay, Thimble Shoals Channel, Hampton Roads, James River and Elizabeth River during these events, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the magnitude of the event itself will limit or prevent transit of the waterway. These regulations are designed to ensure such transit is conducted in a safe and orderly fashion.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Chesapeake Bay, Thimble Shoals Channel, Hampton Roads, James River and Elizabeth River, in Virginia. The regulations would not have a significant

impact on a substantial number of small entities for the following reasons: the restrictions are limited in duration, affect only limited areas, and will be well publicized to allow mariners to make alternative plans for transiting the affected areas.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Dennis Sens, Prevention Division, Fifth Coast Guard District; telephone 757-398-6204, e-mail Dennis.M.Sens@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this

proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure,

we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a

substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why

using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule would temporarily change who can use various anchorages, establish temporary safety and security zones, and establish temporary special local regulations in conjunction with a marine event of national significance, This activities are categorically excluded

from further environmental analysis under figure 2-1, paragraphs (34) (f), (g), and (h) of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule. A preliminary environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects

33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 100, 110, and 165 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35T-05-0174 to read as follows:

§ 100.35T-05-0174 Special Local Regulations; OPSAIL 2012 Virginia, Port of Hamptons, VA.

(a) Definitions. (1) Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on their behalf.

(2) Official Patrol Vessel includes all U.S. Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by the Captain of the Port, Hampton Roads, Virginia.

(3) Parades of Sail Vessel include all vessels participating in OPSAIL 2012 Virginia under the auspices of the U.S. Department of Homeland Security Application for Marine Event, Form CG-4423, for OPSAIL 2012 Virginia activities in the Port of Hampton Roads, Virginia approved by the Captain of the Port, Hampton Roads.

(4) Parade of Sail arrivals is the movement of Parades of Sail vessels in orderly succession as they navigate designated routes in the Port of Hampton Roads, Virginia while inbound to the Port of Hampton Roads, Virginia on June 6, 2012 and June 8, 2012.

(5) Parade of Sail departure is the movement of Parades of Sail vessels in orderly succession as they navigate designated departure routes from the Port of Hampton Roads, Virginia to Baltimore, Maryland on June 12, 2012.

(6) Spectator Vessel includes any vessel, commercial or recreational, being used for pleasure or carrying passenger that is in the Port of Hampton Roads to observe part or all of the OPSAIL 2012 Virginia events.

(7) Large Spectator Vessel includes any spectator vessel 60 feet or greater in length with a passenger capacity of 50 persons or greater.

(8) Vessel Traffic Control Point means a designated point which vessel traffic may not proceed past in either inbound or outbound direction without permission of the Captain of the Port.

(b) Regulated Areas. The following Vessel Traffic Control Points are established as special local regulations during OPSAIL 2012 Virginia in the Port of Hampton Roads, Virginia. All coordinates reference Datum NAS 1983:

(1) Elizabeth River, Western Branch along a line drawn across the Elizabeth River, Western Branch, at the West Norfolk Bridge, located at 36°51'31"N 076°20'54"W thence to 36°51'16"N 076°20'38"W.

(2) Elizabeth River, Eastern Branch along a line drawn

across the Elizabeth River, Eastern Branch, at the Berkley Bridge, located at 36°50'33"N 076°17'11"W thence to 36°50'27"N 076°17'12"W.

(3) Elizabeth River, Southern Branch along a line drawn across the Elizabeth River, Southern Branch, at the Jordan Bridge, located at 36°48'29"N 076°17'30"W thence to 36°48'32"N 076°17'17"W.

(4) James River along a line drawn across the James River at the Monitor-Merrimac Bridge/Tunnel, located at 36°57'32"N 076°24'36"W thence to 36°56'54"N 076°24'18"W.

(5) Chesapeake Bay, Hampton Roads, Hampton Bar, along a line drawn from the Old Point Comfort Light (LLNR 9380) to Fort Wool Light (LLNR 9385), located at 37°00'03"N 076°18'24"W thence to 36°59'14"N 076°18'10"W.

(6) Elizabeth River along a line drawn from Elizabeth River Channel Lighted Buoy 20 (LLNR 9620) to Lafayette River Channel Light 2 (LLNR 10660), located at 36°53'33"N 076°20'15"W thence to 36°53'36"N 076°19'27"W.

(7) Elizabeth River along a line drawn from Elizabeth River Channel Lighted Buoy 29 (LLNR 9715) to Elizabeth River Channel Lighted Buoy 30 (LLNR 9735), located at 36°52'13"N 076°19'44"W thence to 36°52'02"N 076°19'41"W.

(8) Elizabeth River along a line drawn from Elizabeth River Channel Lighted Buoy 36 (LLNR 9900), located at

36°50'49.7"N 076°17'58.7"W thence to the southeast corner of Hospital Point, approximate position latitude 36°50'51" N, longitude 076°18'09" W.

(9) Elizabeth River, Southern Branch along a line drawn across the Elizabeth River, Southern Branch, at the Downtown Tunnel, located at 36°49'57.3"N 076°17'44.5"W thence to 36°50'00.3"N 076°17'35.4"W.

(c) Notification. (1) Coast Guard Captain of the Port will notify the public of the enforcement of these safety zones by all appropriate means to affect the widest publicity among the affected segments of the public. Publication in the Local Notice to Mariners, marine information broadcasts, and facsimile broadcasts may be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public.

(2) Contact Information. Questions about safety zones and related events should be addressed to the Coast Guard Captain of the Port. Contact Coast Guard Sector Hampton Roads - Captain of the Port Zone, Norfolk, Virginia: (757) 483-8567.

(d) Special Local Regulations. (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall: (i) Stop the vessel immediately when directed to do so by an Official Patrol.

(ii) Proceed as directed by any official patrol.

(iii) The operator of any vessel shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake in or near the regulated area.

(e) Enforcement Period: This regulation will be enforced on June 6, 8, 9, and 12, 2012.

PART 110--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. In section 110.168, temporarily suspend paragraphs (e) (2), (e) (3), and (e) (6).

3. Add temporary § 110.168T to read as follows:

§ 110.168T Temporary Amendment Anchorages in Hampton Roads, Virginia and adjacent waters (Datum: NAD 83).

(a) The regulations in this temporary section are supplemental to the regulations in 33 CFR 110.168.

(b) Definitions. As used in this section

(1) Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(2) Official Patrol Vessel includes all U.S. Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by the Captain of the Port, Hampton Roads, Virginia.

(3) Parades of Sail Vessel includes all vessels participating in OPSAIL 2012 Virginia under the auspices of the U.S. Department of Homeland Security Application for Marine Event, CG-4423, for the OPSAIL 2012 Virginia activities in the Port of Hampton Roads, Virginia approved by the Captain of the Port, Hampton Roads.

(4) Parade of Sail Arrivals is the movement of Parades of Sail vessels in orderly succession as they navigate designated routes in the Port of Hampton Roads, Virginia while inbound to the Port of Hampton Roads, Virginia on June 6, 2012 and June 8, 2012.

(5) Parade of Sail Departure is the movement of Parades of Sail vessels in orderly succession as they navigate designated departure routes from the Port of Hampton Roads, Virginia to Baltimore, Maryland on June 12, 2012.

(6) Spectator Vessel includes any vessel, commercial or recreational, being used for pleasure or carrying passenger that is in the Port of Hampton Roads to observe part or all of the OPSAIL 2012 Virginia events.

(7) Large Spectator Vessel includes any spectator vessel 60 feet or greater in length with a passenger capacity of 50 persons or greater.

(8) Vessel Traffic Control Point means a designated point which vessel traffic may not proceed past in either inbound or outbound direction without permission of the Captain of the Port.

(c) [RESERVED]

(d) [RESERVED]

(e) The following modifications apply to Anchorage areas E, F and K. These modifications replace the temporarily suspended regulations in 33 CFR 110.168 paragraphs (e)(2), (e)(3), and (e)(6).

(1) [RESERVED]

(2) Anchorage E. Only Spectator Vessels may anchor in Anchorage E.

(3) Anchorage F. Only Spectator Vessels may anchor in Anchorage F.

(4) [RESERVED]

(5) [RESERVED]

(6) Anchorage K. Only Large Spectator Vessels may anchor in Anchorage K.

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS
AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.501T-05-0174 to read as follows:

§ 165.501T-05-0174 Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters--Regulated Navigation Area.

(a) The regulations in this temporary section are supplemental to the regulations in 33 CFR 110.168.

(b) Definitions. In this section:

(1) Official Patrol Vessel includes all U.S. Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by the Captain of the Port, Hampton Roads, Virginia.

(2) Parade of Sail Vessel includes all vessels participating in OPSAIL 2012 Virginia under the auspices of the U.S. Department of Homeland Security Application for Marine Event, CG-4423, for the OPSAIL 2012 Virginia activities in the Port of Hampton Roads, Virginia approved by the Captain of the Port, Hampton Roads.

(3) Parade of Sail Arrivals is the movement of Parades of Sail vessels in orderly succession as they navigate designated routes in the Port of Hampton Roads, Virginia

while inbound to the Port of Hampton Roads, Virginia on June 6, 2012 and June 8, 2012.

(4) Parade of Sail Departure is the movement of Parades of Sail vessels in orderly succession as they navigate designated departure routes from the Port of Hampton Roads, Virginia to Baltimore, Maryland on June 12, 2012.

(5) Spectator Vessel includes any vessel, commercial or recreational, being used for pleasure or carrying passenger that is in the Port of Hampton Roads to observe part or all of the OPSAIL 2012 Virginia events.

(6) Large Spectator Vessel includes any Spectator Vessel 60 feet or greater in length with a passenger capacity of 50 persons or greater.

(7) Vessel Traffic Control Point means a designated point which vessel traffic may not proceed past in either inbound or outbound direction without permission of the Captain of the Port.

(c) [RESERVED]

(d) Vessels participating in OPSAIL 2012 Virginia Parades of Sail are exempt from the regulations of 165.501(d)(4).

(e) [RESERVED]

(f) [RESERVED]

(g) Regulated Navigation Area for OPSAIL 2012 Virginia. During parades of sail, after firework displays, and any other time deemed necessary for safety and security by the Captain of the Port, Hampton Roads, vessels shall operate

at the minimum speed required to maintain steerage and shall avoid creating a wake when operating within the Regulated Navigation Area, as defined in 33 CFR 165.501.

(h) Regulated areas. The following locations are a moving safety zone: (1) All waters within 500 yards of any OPSAIL 2012 vessel which is greater than 100 feet in length, while operating in the navigable waters of the Chesapeake Bay or its tributaries, south of the Maryland - Virginia border and north of latitude 36°55'00" N. Vessels must operate at minimum speed within 500 yards of any OPSAIL 2012 vessel and proceed as directed by the official patrol commander.

(2) All waters within 100 yards of any OPSAIL 2012 vessel which is greater than 100 feet in length overall, while operating in the navigable waters of the Chesapeake Bay or its tributaries, south of the Maryland - Virginia border and north of latitude 36°55'00" N. Vessels shall not approach within 100 yards any OPSAIL vessel. If a vessel needs to pass within 100 yards of an OPSAIL 2012 vessel in order to ensure safe passage in accordance with the Navigation Rules, the vessel must contact the Coast Guard patrol commander on VHF-FM marine band radio channel 13 (165.65MHz) or channel 16 (156.8 MHz).

3. Add a temporary § 165T05-0174 to read as follows:
§ 165T05-0174 Safety Zone; OPSAIL 2012 Virginia, Port of Hampton, VA.

(a) Regulated Area. The following areas are safety zones. All coordinates listed reference Datum NAD 1983.

(1) OPSAIL Parade of Sail Route Segments. Regulated waters enclosed by the following lines: (i) Segment One. All waters bounded by a line connecting the Chesapeake Bay Entrance Lighted Whistle Buoy CH (LLNR 405) to Thimble Shoal Channel Lighted Bell Buoy 1TS (LLNR 9205), thence to Thimble Shoal Channel Lighted Bell Buoy 9 (LLNR 9255), thence to Thimble Shoal Channel Lighted Bell Buoy 10 (LLNR 9260), thence to Thimble Shoal Channel Lighted Buoy 2 (LLNR 9210), thence to the beginning.

(ii) Segment Two. All waters bounded by a line connecting Thimble Shoal Channel Lighted Bell Buoy 9 (LLNR 9255), thence to Thimble Shoal Channel Lighted Gong Buoy 17 (LLNR 9295), thence to Fort Wool Light (LLNR 9385), thence to Old Point Comfort Light (LLNR 9380), thence to Thimble Shoal Channel Lighted Buoy 22 (LLNR 9320), thence to Thimble Shoal Channel Lighted Buoy 18 (LLNR 9300), thence to Thimble Shoal Channel Lighted Buoy 10 (LLNR 9260), thence to the beginning.

(iii) Segment Three. All waters bounded by a line connecting Fort Wool Light (LLNR 9385), thence to Elizabeth River Channel Lighted Buoy 1ER (LLNR 9445), thence to Elizabeth River Channel Lighted Bell Buoy 3 (LLNR 9465), thence to Elizabeth River Channel Lighted Gong Buoy 5 (LLNR 9470), thence to Elizabeth River Channel Lighted Buoy 7 (LLNR 9475), thence to Elizabeth River Channel Lighted Buoy 9 (LLNR 9515), thence to Elizabeth River Channel Lighted Buoy 11 (LLNR 9525), thence to Elizabeth River Channel Lighted Buoy 15 (LLNR 9545), thence to Elizabeth River Channel Lighted Gong Buoy 17 (LLNR 9595), thence to Elizabeth River Channel Lighted Buoy 19 (LLNR 9605), thence to Lafayette River Channel Light 2 (LLNR 10660), thence to Elizabeth River Channel Lighted Buoy 20 (LLNR 9620), thence to Elizabeth River Channel Lighted Buoy 18 (LLNR 9600), thence to Elizabeth River Channel Lighted Buoy 14 (LLNR 9540), thence to Elizabeth River Channel Lighted Buoy 12 (LLNR 9530), thence to Elizabeth River Channel Lighted Bell Buoy 10 (LLNR 9520), thence to Elizabeth River Channel Lighted Buoy 8 (LLNR 9500), thence to Newport News Channel Lighted Buoy 2 (LLNR 10840), thence to Old Point Comfort Light (LLNR 9380), thence to the beginning.

(iv) Segment Four. All waters bounded by a line connecting Elizabeth River Channel Lighted Buoy 20 (LLNR

9620), thence to Elizabeth River U.S. Navy Deperming Range Sound Signal (LLNR 9725), thence to Elizabeth River Channel Lighted Buoy 30 (LLNR 9735), thence to Elizabeth River Channel Lighted Buoy 32 (LLNR 9840), thence to Elizabeth River Channel Lighted Buoy 36 (LLNR 9900), thence following the shoreline to the western terminus of the Jordan Bridge, thence to the eastern terminus of the Jordan Bridge shoreline, thence following the shoreline to the southern terminus of the Berkley Bridge, thence to the northern terminus of the Berkley Bridge, thence following the shoreline to Elizabeth River Channel Lighted Buoy 33 (LLNR 9850), thence to Elizabeth River Channel Buoy 31 (LLNR 9835), thence to Elizabeth River Channel Lighted Buoy 29 (LLNR 9715), thence to Elizabeth River Channel Lighted Buoy 25 (LLNR 9710), thence to Elizabeth River Channel Lighted Buoy 21 (LLNR 9625), thence to Lafayette River Channel Light 2 (LLNR 10660), thence to the beginning.

(b) Regulated Area. The following area is a safety zone. All coordinates listed reference Datum NAD 1983.

(1) Fireworks Display Safety Zone: Regulated waters enclosed by the following lines: (i) All waters bounded by a line connecting Elizabeth River Channel Lighted Buoy 20 (LLNR 9620), thence to Elizabeth River U.S. Navy Deperming Range Sound Signal (LLNR 9725), thence to Elizabeth River

Channel Lighted Buoy 30 (LLNR 9735), thence to Elizabeth River Channel Lighted Buoy 32 (LLNR 9840), thence to Elizabeth River Channel Lighted Buoy 36 (LLNR 9900), thence following the shoreline to the western terminus of the Jordan Bridge, thence to the eastern terminus of the Jordan Bridge shoreline, thence following the shoreline to the southern terminus of the Berkley Bridge, thence to the northern terminus of the Berkley Bridge, thence following the shoreline to Elizabeth River Channel Lighted Buoy 33 (LLNR 9850), thence to Elizabeth River Channel Buoy 31 (LLNR 9835), thence to Elizabeth River Channel Lighted Buoy 29 (LLNR 9715), thence to Elizabeth River Channel Lighted Buoy 25 (LLNR 9710), thence to Elizabeth River Channel Lighted Buoy 21 (LLNR 9625), thence to Lafayette River Channel Light 2 (LLNR 10660), thence to the beginning.

(c) Notification. (1) Coast Guard Captain of the Port will notify the public of the enforcement of these safety zones by all appropriate means to affect the widest publicity among the affected segments of the public. Publication in the Local Notice to Mariners, marine information broadcasts, and facsimile broadcasts may be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public.

(2) Contact Information. Questions about safety zones and related events should be addressed to the Coast Guard Captain of the Port. Contact Coast Guard Sector Hampton Roads - Captain of the Port Zone, Norfolk, Virginia: (757) 483-8567.

(d) Regulations: (1) In accordance with the general regulations in 165.23 of this part, entry into these zones is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall: (i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton

Roads in Portsmouth, Virginia at telephone Number (757) 668-5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65MHz) or channel 16 (156.8 MHz).

(e) Enforcement Period: This regulation will be enforced June 6, 8, 9, and 12, 2012.

Dated: MARCH 15, 2012

William D. Lee
Rear Admiral, U.S. Coast Guard
Commander, Fifth Coast Guard District

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